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FEE TRANSMITTAL for FY 2006

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Complete if Known

Application Number	10/751,174
Filing Date	December 31, 2003
First Named Inventor	Nicholas W. Oakley
Examiner Name	Ingrid D. Wright
Art Unit	2835
Attorney Docket No.	42P18067

☐ Applicant claims small entity status. See 37 CFR 1.27.

TOTAL AMOUNT OF PAYMENT (\$) 0.00

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☒ None ☐ Other (please identify): _____

☒ Deposit Account Deposit Account Number: 02-2666 Deposit Account Name: Blakely, Sokoloff, Taylor & Zafman LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

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under 37 CFR §§ 1.16, 1.17, 1.18 and 1.20.

FEE CALCULATION

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
2053	130	2053	130	Non-English specification	
1251	120	2251	60	Extension for reply within first month	
1252	450	2252	225	Extension for reply within second month	
1253	1,020	2253	510	Extension for reply within third month	
1254	1,590	2254	795	Extension for reply within fourth month	
1255	2,160	2255	1,080	Extension for reply within fifth month	
1401	500	2401	250	Notice of Appeal	
1402	500	2402	250	Filing a brief in support of an appeal	
1403	1,000	2403	500	Request for oral hearing	
1451	1,510	2451	1,510	Petition to institute a public use proceeding	
1460	130	2460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
1809	790	1809	395	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))	
Other fee (specify) Reply Brief under 37 CFR 41.41(a)					0.00
SUBTOTAL (2)				(\$)	0.00

SUBMITTED BY

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In Re Application of:

Nicholas W. Oakley

Application No.: 10/751,174

Filed: December 31, 2003

For: Mobile Computer Compound Hinge

Examiner: Wright, Ingrid D

Art Unit: 2835

Confirmation Number: 3400

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on December 18, 2006

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REPLY BRIEF UNDER 37 C.F.R. § 41.41(a)

This is a Reply Brief related to an appeal to the Board of Patent Appeals and Interferences from the decision of the Examiner dated January 10, 2006. This Reply Brief is hereby submitted pursuant to 37 C.F.R. § 41.41, in response to the Examiner's Answer mailed October 17, 2006.

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	The PTO: cites to no actual evidence to support the conclusary statements cited in rejecting applicant's claims under 35 USC 102 and the later 103 rejections using the same conclusions, fails to rebut the presumption of use of inappropriate hindsight, and fails to address applicants rebuttal argument of inappropriate 35 USC 103 modification of the cited prior art.	
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I. REAL PARTY IN INTEREST

The real party in interest is the assignees of the full interest in the invention, Intel Corporation of Santa Clara, CA.

II. RELATED APPEALS AND INTERFERENCES

To the best of Appellants' knowledge, there are no appeals or interferences related to the present appeal that will directly affect, be directly affected by, or have a bearing on the Board's decision in the instant appeal.

III. STATUS OF CLAIMS

Claims 1-17 are pending in this application. All claims stand rejected. Claims 1-17 are presented for appeal. A copy of claims 1-17 as they stand on appeal are set forth in Appendix A.

IV. STATUS OF AMENDMENTS

No amendments were filed subsequent to the final rejection.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

The instant application relates to an apparatus that includes a compound hinge. (See Abstract).

Example implementations of claims 1, 7, and 14 are as follows. In independent claim 1, an apparatus includes a base (204), a lid (202), a first link (206), and a second link (208). (See also Specification, pages 4-5, ¶ 13). The first link (206) is hinged to the base (204) about a first axis (210) at a first position (first edge 218 of the base), and hinged to the lid (202) about a second axis (214). The second link (208) is hinged to the base (204) about a third axis (212) at a second position (at a distance inward on the base 204 from the first edge 218), and hinged to the lid about a fourth axis (216). (See also Specification, p. 5, ¶ 14). The distance between the first position (first edge 218 of the base) and the second position (at a distance inward on the base 204 from the first

edge 218) is shorter than one half of the length of the base (204). (See, Figures 2, 3A, 3B, 3C, 4, 5A, and 5B).

In independent claim 7, Appellants claim an apparatus that includes a base (204), a lid (202), a first link (206), and a second link (208). (See also Specification, pages 4-5, ¶ 13). The first link (206) is pivotally coupled to the base (first edge 218 of the base) and pivotally coupled to the lid (See connection of link 206 with lid 202 at 214). The second link (208) is pivotally coupled to the base (at 216) and pivotally coupled to the lid (at 212). The first and second links (206 and 208 respectively) are positioned to position an edge of the display a distance from a first edge (218) of the base towards a second opposite edge (the edge of the display opposite to edge 218) of the base when the lid (202) is in an unfolded position. A distance between the first edge (218) and a position of hinging of the second link (208) to the base (at 212 in Figure 4) is shorter than the distance between the position of hinging of the second link (208) to the base (at 212 in Figure 4) and the second edge of the base (the edge of the display opposite to edge 218 in Figure 4).

In independent claim 14, Appellants claim an apparatus that includes a base (204), a lid (202), a first link (206), and a second link (208). (See also Specification, pages 4-5, ¶ 13). The first link (206) is pivotally coupled to a first edge of the base (first edge 218 of the base 204) at a first position (first edge 218 of the base) and pivotally coupled to lid (202), a first distance from an edge of the lid (See connection of link 206 with lid 202 at 214). The second link (208) is pivotally coupled to the base at a second position (at 216), a second distance from the first link (206), and pivotally coupled to an edge of the lid (at 212), wherein a distance between the first position (218) and second position (212) is shorter than one half of the length of the base (204). (See also, Figures 2, 3A-C, 4, and 5A-B).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The issues involved in this Appeal are as follows:

- A. Claims 1-5, 7-11, and 14-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent No. 6,384,811 B1 by Kung, et al. ("Kung").

B. Claims 6, 12, 13 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kung and the alleged knowledge in the art in view of US Patent No. 6,654,234 B2 by Landry, et al. ("Landry").

VII. ARGUMENT

A. Overview of Cited References

1. Overview of Kung – Kung discloses using two pairs of links to connect a display of a portable computer to the main frame. The display module is movable among (1) a closed position where the display module is disposed on top of the main frame module with the display panel facing downwardly and covering the keyboard, (2) a standard keyboard typing position where the display panel forms an angle with the keyboard, and (3) an image viewing position where the display module is disposed on top of the main frame module and covers the keyboard with the display panel facing upwardly.

2. Overview of Landry – Landry discloses a connector arm rotated about a hinge structure outwardly from the base of a portable computer to an angular orientation.

B. The PTO: cites to no actual evidence to support the conclusory statements cited in rejecting applicant's claims under 35 USC 102 and the later 103 rejections using the same conclusions, fails to rebut the presumption of use of inappropriate hindsight, and fails to address applicants rebuttal argument of inappropriate 35 USC 103 modification of the cited prior art.

Applicants disclosed and claimed a mechanical design to support a lid generally containing a display that is highly adjustable relative to the base of that device. Applicants disclosed and claimed a mechanical design that is different than the concepts disclosed in the prior art reference named Kung. An embodiment of applicant's disclosed invention and Kung disclose concepts that achieve some common purposes such as supporting the lid with the link arms extending from the base but

Applicants disclosed and claimed mechanical design is far different and superior to Kung's. In support of this, applicants cite that the examiner's response acknowledges that nowhere in Kung, does that document disclose the limitation of "a distance between the first position [of a hinge connection on the base] and the second position [of a hinge connection on the base] is shorter than one half of the length of the base. The examiner also relies on combination with a second reference to achieve more detailed implementation aspects of some embodiments of applicant's disclosed and claimed mechanical design. The two mechanical designs are different.

Annoyingly, the Examiner's answer does not address applicant's detailed explanation of how modification of Kung's disclosed concept in the proposed manner to achieve applicant's claimed invention would render the embodiments in figure's 2-9 of Kung's disclosed concept inoperable. (See applicant's Appeal Brief, and the Response to the Final Office Action.) Note also, figure 1 in Kung is a prior art figure. Rather the Examiner's response, merely states it would be obvious to modify Kung's disclosed concept in the manner suggested by the examiner to achieve applicant's claimed invention because that "would provide an alternative means of providing a support structure for the lid" (an achieved result accomplished by applicant's design and Kung's disclosed design.) Yet not only does the Examiner not address applicants explanation of how this is not possible under rules of patent law for 103 rejections, the Examiner fails to give evidence either documentary, declaration, or other manner as the source the Examiner relies upon to make the proposed modification of Kung to achieve the limitations in applicant's claim 1.

The point is under 35 USC 103, the examiner is presumed to rely upon inappropriate hindsight after reading applicant's teachings to understand how to modify the prior art to achieve applicant's claimed invention. In this case, the PTO has not met its burden to overcome the presumption of hindsight under 35 USC 103 to show through documentary evidence or a signed declaration by the Examiner that placement of the hinge positions in the base and the placement of the link arms in the base relative to their connection points on the lid was 1) notoriously known in the prior art at the time of the filing of applicants patent application or 2) disclosed in some other prior art document. On the record, the examiner relies merely on her own personal conclusions

to make this proposed modification. For this fact alone, the 35 USC 102 rejection under inherency is inappropriate because the PTO has failed to establish the necessary evidence to overcome the 35 USC 103 presumption of reliance upon inappropriate hindsight. Moreover, applicants have gone one step further in showing that the proposed modification of the design concepts would not work and would render the disclosed concepts in Kung inoperable. Nothing in Kung discloses or suggests how to modify the design presented by Kung to incorporate applicants limitation of "a distance between the first position [of a hinge connection on the base] and the second position [of a hinge connection on the base] is shorter than one half of the length of the base" and still make the illustrated embodiments of figures 2-9 of Kung workable. Essentially, one must fully adopt applicants disclosed and claimed structural design and then at that point workable implementations are possible. Thus, claims 1-5, 7-11, and 14-16 are patentable over Kung under 35 USC 102.

For reference, - the law requires to prevent the use of hindsight an examiner "must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed." In re Rouffet, 149 F.3d 1350, 1359, 47 USPQ2d 1453, 1459 (Fed. Cir. 1998.) (emphasis added) (Also see MPEP 2142 as well as MPEP 2145). The PTO bears the burden of proving an obviousness type rejection based on findings of fact and not based on conclusive statements. In re Dembiczak, 175 F.3d 994 (Fed. Cir. 1999). The patent examiner must cite sufficient facts to meet the evidentiary standard of a prima facie case of obviousness by a preponderance of the evidence under 35 USC § 103 rather than a mere obvious to try standard. Ex parte Hillyer, 68 USPQ2d 1222, 1224 (Fed. Cir. 2003). Adequate findings of fact can come from several sources. Dembiczak at 996. The motivation to combine reference must be found in the cited references themselves. Id. Alternatively, the PTO may establish that one of ordinary skill in the art would have been motivated to combine the references with articulated findings of fact regarding: 1) the level of skill in the art; 2) the relationship between the fields of the cited art; and 3) the particular features of the prior art references that would motivate one of ordinary skill

in applicant's particular art to select elements disclosed in references from a wholly different field. Id.


Also, the office action and Examiner's Answer incorporate those same deficiencies into the 35 USC 103 rejections of claims 6, 12, 13 and 17. Thus, claims 6, 12, 13 and 17 are patentable over Kung and Landry under 35 USC 103.

VIII. CONCLUSION AND PRAYER FOR RELIEF.

Based on the foregoing, 1-5, 7-11, and 14-16 are patentable over the cited reference of Kung. Further, claims 6, 12, 13 and 17 are patentable over Kung and Landry under 35 USC 103. Thus, the rejections of claims 1-17 should be withdrawn. Appellant respectfully requests that the Board reverse the rejections of claims 1-17. Applicants are entitled to a full and through examination each time the PTO reviews the merits of this application. Accordingly, since there are no remaining grounds of rejection to be overcome, please direct the Examiner to enter a Notice of Allowance for claims 1-17. Alternatively, applicants request the Board to exercise its authority to enter a Notice of Allowance for claims 1-17.

Respectfully submitted,

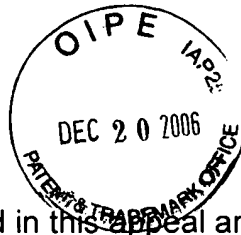
Dated: Dec. 18, 2006



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IX. CLAIMS APPENDIX



The claims involved in this appeal are presented below.

1. (Previously Presented) An apparatus comprising:

a base;

a lid;

a first link hinged to the base about a first axis at a first position, and hinged to the lid about a second axis; and

a second link hinged to the base about a third axis at a second position, and hinged to the lid about a fourth axis, wherein a distance between the first position on the base and the second position on the base is shorter than one half of the length of the base.

2. (Original) The apparatus of claim 1, the first and second link situated to position an edge of the display a distance from a first edge of the base towards a second opposite edge of the base, when the lid is in an unfolded position.

3. (Previously Presented) The apparatus of claim 1, wherein the first link is pivotally coupled to the first edge of the base, and the second link is pivotally coupled to the base between the first link and the second edge of the base.

4. (Original) The apparatus of claim 3, wherein, in the unfolded position, a distance between the first link pivotally coupled to the base and second link pivotally

coupled to the base, is less than a distance between the bottom of the lid and the first edge of the base.

5. (Original) The apparatus of claim 4, wherein the apparatus is mobile computer system.

6. (Original) The apparatus of claim 5, wherein the first and second links are pivotally coupled to a member section of the base, the member section pivotally coupled to the base.

7. (Previously Presented) An apparatus comprising:
a base;
a lid;
a first link pivotally coupled to the base and pivotally coupled to the lid; and
a second link pivotally coupled to the base and pivotally coupled to the lid, the first and second link positioned to position an edge of the display a distance from a first edge of the base towards a second opposite edge of the base, when the lid is in an unfolded position, wherein a distance between the first edge and a position of hinging of the second link to the base is shorter than the distance between the position of hinging of the second link to the base and the second edge of the base.

8. (Original) The apparatus of claim 7, wherein the first link has a length greater than the second link.

9. (Original) The apparatus of claim 8, wherein the first link is pivotally coupled to first edge of the base, and the second link is situated between the first link and the second edge of the base.

10. (Original) The apparatus of claim 9, wherein, in the unfolded position, a distance between the first link pivotally coupled to the base and second link pivotally coupled to the base, is less than a distance between the bottom of the lid and the first edge of the base.

11. (Original) The apparatus of claim 10, wherein the apparatus is mobile computer system.

12. (Original) The apparatus of claim 7, wherein the first and second links are pivotally coupled to a member section of the base, the member section pivotally coupled to the base.

13. (Original) The apparatus of claim 7, wherein the member section is pivotally coupled to the first edge of the base.

14. (Previously Presented) An apparatus comprising:
a base;
a lid;

a first link pivotally coupled to a first edge of the base at a first position and pivotally coupled to lid, a first distance from an edge of the lid; and

a second link pivotally coupled to the base at a second position, a second distance from the first link, and pivotally coupled to an edge of the lid, wherein a distance between the first position and second position is shorter than one half of the length of the base.

15. (Original) The apparatus of claim 14, wherein the first link and second link are coupled to the base and lid, to position the edge of the lid a third distance from the first edge of the base towards a second opposite edge of the base, when the lid is in an unfolded position.

16. (Original) The apparatus of claim 15, wherein the apparatus is mobile computer system.

17. (Original) The apparatus of claim 16, wherein the first and second links are pivotally coupled to a member section of the base, the member section pivotally coupled to the base.

X. EVIDENCE APPENDIX

No other evidence is submitted in connection with this appeal.

XI. RELATED PROCEEDINGS APPENDIX

No related proceedings exist.